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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,392	07/03/2000	Hyeon Jun Kim	P-102	4315

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EXAMINER

AMINI, JAVID A

ART UNIT PAPER NUMBER

2672

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/609,392

Applicant(s)

KIM, HYEON JUN

Examiner

Javid A. Amini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/18/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Response to Arguments

Applicant's arguments with respect to claim 22 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 22 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-6 of U.S. Patent No. 6,658,168 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 22, lines 1-2 of the current application: A confidence measure extraction method of a video region dominant color, comprising the steps of: Kim broadly claims the confidence measure (Patent refers as RRCS) of a video region dominant color (Patent refers as RRC) of the preamble of the current application.

Claim 1 of Patent 6,658,168 B1: A method for retrieving an image comprising:

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Claim 22, line 3 of the current application: determining a count sum (Patent claims as comparing) of a confidence and pixels (Patent refers as regional representative color) as an initial value (Patent refers as threshold value).

Claim 1 of Patent 6,658,168 B1: comparing the confidence measure of the regional representative color for each subregion to a predetermined threshold value.

Claim 22, lines 4-8 of the current application: obtaining a value obtained by counting a color pixel (patent refers as a target image) corresponding to each region dominant color (patent refers as the reference image) with respect to all region dominant colors and a coherence corresponding to a value obtained by each region dominant color (patent refers as if the confidence measure of the regional representative color for a subregion is greater than the threshold value, and otherwise, determining a similarity between the reference image and a target image using the second feature information of the reference image);

Claim 22, lines 7-8 of the current application: multiplying the coherence value (patent refers as a frequency of each main color) and the color pixel (patent refers as a grid feature information or reference image), adding a confidence to the multiplied value and obtaining a confidence (patent refers as second feature information) with respect to the region dominant color;

Claim 6 of patent 6,658,158 B1: wherein the second feature information of the reference image is one of or a combination of both a plurality of main colors of the grids and a frequency of each main color, and a grid feature information other than a color information.

Claim 1 of Patent 6,658,168 B1: determining a similarity between the reference image and a target image using the regional representative color if the confidence measure of the regional representative color for a subregion is greater than the threshold value, and otherwise,

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determining a similarity between the reference image and a target image using the second feature information of the reference image

Claim 22, lines 9-10 of the current application: dividing the thusly obtained confidence value (patent refers as a reference image) by a region size and extracting a confidence (patent refers as a second feature information) with respect to the image region.

Claim 1 of Patent 6,658,168 B1: dividing a reference image into subregions, extracting a regional representative color and a confidence measure of the regional representative color for each of the subregions, and extracting a second feature information of the reference image;

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 22 rejected under 35 U.S.C. 102(e) as being anticipated by Kim with Patent number of 6,658,158 B1.

Claim 22, a confidence measure extraction method of a video region dominant color, comprising the steps of: Kim in col. 3 lines 9-49 teaches the claim limitations. Current application broadly claims the confidence measure (Patent refers as RRCS) of a video region dominant color (Patent refers as RRC) of the preamble of the current application.

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Claim 22, determining a count sum of a confidence and pixels (Patent refers as regional representative color) as an initial value (Patent refers as threshold value). Kim in col. 3 lines 43-46 discloses the claim limitations.

Claim 22, obtaining a value obtained by counting a color pixel (patent refers as a target image) corresponding to each region dominant color (patent refers as the reference image) with respect to all region dominant colors and a coherence corresponding to a value obtained by each region dominant color (patent refers as if the confidence measure of the regional representative color for a subregion is greater than the threshold value, and otherwise, determining a similarity between the reference image and a target image using the second feature information of the reference image); Kim in col. 5 lines 36-56 teaches the claim limitations.

Claim 22, multiplying the coherence value (patent refers as a frequency of each main color) and the color pixel (patent refers as a grid feature information or reference image), adding a confidence to the multiplied value and obtaining a confidence (patent refers as second feature information) with respect to the region dominant color; Kim in col. 5 lines 37-45 illustrates them in the equations. Also in col. 3 teaches an algorithm.

Claim 22, lines 9-10 of the current application: dividing the thusly obtained confidence value (patent refers as a reference image) by a region size and extracting a confidence (patent refers as a second feature information) with respect to the image region. Kim in fig. 1 illustrates FIG. 1 shows a flowchart of a method for retrieving an image in accordance to the preferred embodiment of the present invention, where an image is divided in length and width directions by a fixed ratio, i.e. into grid regions, and each grid region or cell units. Thereafter, a regional representative color C for each cell and a confidence measure of the regional representative color

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C, a set of main colors such as a histogram H, and texture information such as an edge direction component are extracted (S10-S30).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javid A. Amini whose telephone number is 571-272-7654. The examiner can normally be reached on 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on 571-272-7664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEFFERY BRIER
PRIMARY EXAMINER

Javid A Amini
Examiner
Art Unit 2672

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